

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2011-20-E

In the Matter of:)
)
Amended Project Development Application of)
Duke Energy Carolinas, LLC)
for Approval of Decision to Incur Nuclear)
Generation Pre-Construction Costs)
)

REBUTTAL TESTIMONY OF
JAMES E. ROGERS
FOR DUKE ENERGY CAROLINAS, LLC

1 **Q. PLEASE STATE YOUR NAME, ADDRESS AND POSITION WITH DUKE**
2 **ENERGY CORPORATION.**

3 **A.** My name is James E. Rogers, and my business address is 526 South Church Street,
4 Charlotte, North Carolina. I am Chairman, President, and Chief Executive Officer of
5 Duke Energy Corporation (“Duke Energy”). Duke Energy Carolinas, LLC (“Duke
6 Energy Carolinas” or the “Company”) is a subsidiary of Duke Energy.

7 **Q. HAVE YOU PREVIOUSLY FILED DIRECT AND SUPPLEMENTAL**
8 **TESTIMONY SUPPORTING THE AMENDED APPLICATION IN THIS**
9 **DOCKET?**

10 **A.** Yes.

11 **Q. WHAT IS THE PURPOSE OF YOUR REBUTTAL TESTIMONY?**

12 **A.** The purpose of my rebuttal testimony is to update the Public Service Commission of
13 South Carolina (“the Commission”) on the status of the Company’s position in light of
14 the circumstances in Japan and to respond to the testimony of Nancy Brockway, filed on
15 behalf of the Coastal Conservation League, (“CCL”) and the testimony of Kevin
16 O’Donnell, filed on behalf of the South Carolina Energy Users Committee (“SCEUC”).

17 **Q. HAS THE BACKDROP OF THE NUCLEAR INDUSTRY CHANGED SINCE**
18 **THE COMPANY FILED ITS REVISED APPLICATION WITH THE**
19 **COMMISSION IN JANUARY OF 2011?**

20 **A.** Yes. As the Commission well knows, on March 11, 2011, the Fukushima Daiichi
21 Nuclear Power Plant in Japan suffered severe damage after an earthquake and subsequent
22 tsunami. The resulting radiation leaks prompted Japan to evacuate the population within
23 a twenty-mile radius of the plant, and has caused some to question the role nuclear energy

1 should play in meeting current and future energy needs of the United States. Duke
2 Energy continues to believe nuclear energy should play a key role in meeting America's
3 current and future energy needs. The Company also remains committed to operating its
4 nuclear facilities safely and in accordance with current regulations and any enhancements
5 and/or new regulations, policies, and procedures identified after careful evaluation of the
6 Fukushima Daiichi event.

7 That said, the Company acknowledges and understands the concerns the events of
8 Japan raise for the public and various regulators. This concern is clearly evident in North
9 Carolina, where it has been reported that construction work in progress ("CWIP")
10 legislation the Company hoped would be introduced this term in the North Carolina
11 General Assembly has been delayed due to the events in Japan.

12 **Q. WHAT IS THE STATUS OF THE LEGISLATION THAT YOU HAVE**
13 **INDICATED IS NECESSARY FOR THE COMPANY TO ULTIMATELY**
14 **CONSTRUCT THE LEE NUCLEAR STATION?**

15 **A.** As the Commission is aware, the Company has been supportive of the introduction of
16 legislation in North Carolina that would allow for annual recovery of nuclear financing
17 costs outside of a general rate case, similar to the Baseload Review Act ("BLRA") here in
18 South Carolina. Although Nancy Brockway, expert witness for CCL, refers to this
19 legislation as "super CWIP", the reality is that the Company is merely supportive of the
20 passage of legislation in North Carolina that would parallel South Carolina's BLRA by
21 allowing Duke Energy to recover financing costs for new nuclear construction on a
22 timely basis without a full general rate case, which is costly and time consuming for all
23 parties.

1 At present, the deadlines for the introduction of legislation during this session of
2 the North Carolina General Assembly have passed and the subject legislation has not
3 been introduced. The Company continues to believe that such legislation will ultimately
4 be passed in North Carolina so as to enable the development and construction of these
5 important and necessary resources for the benefit of the customers of the state's utilities.

6 **Q. HAS THE COMPANY'S POSITION ON NUCLEAR DEVELOPMENT**
7 **CHANGED SINCE THE EVENTS IN JAPAN?**

8 **A.** No, it has not. The Company remains committed to its nuclear operating fleet and the
9 proposed Lee Nuclear Station. As Company Witness Jones describes in his rebuttal
10 testimony, Duke Energy Carolinas is still gathering information and will ultimately
11 incorporate lessons learned from this event into the future plants, and will continue to do
12 whatever is necessary to ensure the safety of our communities and employees.

13 **Q. YOU HAVE STATED PUBLICLY THAT THE NUCLEAR INDUSTRY SHOULD**
14 **TAKE A PAUSE FROM BUILDING NEW NUCLEAR FACILITIES IN LIGHT**
15 **OF THE EVENTS IN JAPAN. WHAT DID YOU MEAN?**

16 **A.** I have stated publicly that we should take a pause to learn the lessons from the events in
17 Japan and to implement those lessons. As explained in more detail in Company Witness
18 Jones' rebuttal testimony, the nuclear industry in the United States is doing just that.
19 U.S. nuclear plant owners have approved an industry-wide assessment to verify and
20 validate each plant site's readiness to manage extreme events and we know the NRC is
21 committed to understanding fully the events of Fukushima Daiichi. Further, because the
22 Project has not yet received a Combined Construction and Operating License ("COL")

1 from the U.S. Nuclear Regulatory Commission (“NRC”), there is ample time to
2 incorporate the necessary modifications into the Project with little disruption.

3 **Q. NANCY BROCKWAY, WITNESS FOR CCL, SUGGESTS THAT DUKE**
4 **ENERGY CAROLINAS SHOULD PURSUE AN INVESTMENT IN THE V.C.**
5 **SUMMER NUCLEAR PLANT (“SUMMER”) IN LIEU OF MOVING FORWARD**
6 **WITH LEE NUCLEAR STATION AND, IN FACT, RECOMMENDS THE**
7 **COMMISSION REQUIRE THE COMPANY TO TAKE SUCH ACTION AT THIS**
8 **TIME. IS MS. BROCKWAY’S RECOMMENDATION REASONABLE?**

9 **A.** No, it is not. Since the filing of my direct and supplemental testimony, discussions have
10 continued between Duke Energy Carolinas and Santee Cooper regarding the Company’s
11 potential participation in the new units at Summer. The Company hopes these
12 discussions will lead to mutually beneficial opportunities for the parties’ respective
13 participation in the Lee Nuclear Station and the new Summer units. Duke Energy
14 Carolinas is pursuing this opportunity at a steady, deliberate pace, recognizing the
15 potential long-term ramifications of a partnership in new nuclear generation. Ms.
16 Brockway seems to characterize the Company’s options regarding Lee Nuclear Station
17 and Summer as an “either, or” scenario, which is fundamentally incorrect. Given the
18 diverse needs and requirements of the many possible participating entities in these and
19 other future generating facilities in the Southeast, I firmly believe that a regional nuclear
20 generation approach requires us to consider and maintain all potential options for both
21 Lee Nuclear Station and Summer. If we ultimately participate in such projects, we will
22 ensure such participation will be beneficial to our customers.

1 Forcing the Company to engage in directed negotiations with particular parties
2 about particular resources is simply unnecessary, and it would place Duke Energy
3 Carolinas in a highly compromised bargaining position. This recommendation also
4 reflects a fundamental misunderstanding of partnership negotiations; any broadly known,
5 unilateral burdens on one party of a bilateral negotiation or multi-party negotiations will
6 only operate to the detriment of the burdened party. Duke Energy Carolinas will
7 continue to keep the Commission apprised of any and all partnership developments as
8 they relate to the Company's proposed Lee Nuclear Station or any other new nuclear
9 generating facility.

10 **Q. IS DUKE ENERGY CAROLINAS COMMITTED TO REGIONAL NUCLEAR**
11 **GENERATION?**

12 **A.** Yes. Duke Energy Carolinas has been and remains committed to regional nuclear
13 generation and to prudently managing and sharing the risks associated with new nuclear
14 development. The process of evaluating partnership opportunities is neither simple nor
15 quick. Partnerships in a new nuclear facility will likely last a very long time, so adequate
16 deliberation and due diligence is necessary. The parties must also analyze how a partner
17 would be integrated into the process for obtaining the COL from the NRC for the subject
18 facility. Because of the long life cycle of nuclear development and the significant costs
19 and potential financial risk associated with ownership of a nuclear generating facility, the
20 process of negotiating an acceptable partnership arrangement takes a substantial amount
21 of time and effort. No party enters into such an agreement lightly and many discussions,
22 meetings, exchanges of information and draft agreements occur during the due diligence
23 and negotiation process. Most of the discussions between the Company and potential

1 partners are covered by confidentiality agreements that limit the information either party
2 can disclose.

3 It can be tempting to speculate and draw conclusions prematurely, but with the
4 commercial operation date currently scheduled in 2021, Duke Energy Carolinas is early
5 in the development of Lee Nuclear Station. There remains ample time to find other
6 partners to join us in the development of Lee Nuclear Station, but even if none are found,
7 the Company is well positioned to move forward on this project independently and, as I
8 discuss later, can support the need for its full capacity. I am satisfied with the progress of
9 the regional generation discussions to this point.

10 **Q. PLEASE PROVIDE THE COMMISSION WITH YOUR RESPONSE TO MR.**
11 **PHILLIPS' RECOMMENDATION ON PAGE 20 OF HIS TESTIMONY THAT**
12 **THE OPTION AGREEMENT BETWEEN THE COMPANY AND JEA MUST BE**
13 **APPROVED?**

14 **A.** As a preliminary matter, I should note that we understand and agree that our
15 arrangements with JEA and any other potential participants in Lee Nuclear Station will
16 be subject to the review and approval of the Commission in a proceeding under the Base
17 Load Review Act or an application for a Certificate of Environmental Compatibility and
18 Public Convenience and Necessity ("CPCN"). We believe that review of those
19 arrangements at that stage is appropriate and sufficient and we do not agree that
20 additional prior approval is necessary or wise. Mr. Phillips cites no statutory authority
21 for this recommendation. We believe that the current provisions of the Base Load
22 Review Act provide a clear indication that utilities may have partners for these type
23 projects. In Section 58-27-230(A) the Act expressly contemplates that an electric utility

1 may file an application “individually or jointly with other parties.” There is no
2 requirement of prior approval of any contractual arrangements between those parties
3 before the filing, which appears to be what Mr. Phillips is recommending. In addition to
4 the lack of statutory authority for the additional requirement, Mr. Phillips proposes prior
5 approval of option arrangements would place a difficult business burden on the Company
6 with regard to negotiating appropriate arrangements to bring in partners and might in
7 some circumstances prevent the Company from being able to bring in those partners. We
8 believe the existing level of review of these arrangements during the Base Load Review
9 Act or CPCN proceeding strikes the appropriate balance between allowing the Company
10 to engage in business negotiations while protecting the interests of ratepayers.

11 **Q. DOES THE COMPANY’S SALE OF AN OPTION ON LEE NUCLEAR STATION**
12 **TO JEA MEAN THAT DUKE ENERGY CAROLINAS DOES NOT NEED ALL**
13 **OF THE CAPACITY FROM THE LEE NUCLEAR STATION PROJECT?**

14 **A.** Absolutely not. As I explained in my supplemental testimony, Duke Energy Carolinas’
15 2010 Integrated Resource Plan (“IRP”) clearly demonstrates that the future capacity and
16 energy needs of the Company exceed the full output of 100% of the Project. To the
17 extent that the Company will receive less than 100% of the output of Lee Nuclear Station
18 due to JEA’s exercise of its option, Duke Energy Carolinas will need to procure the
19 capacity and energy necessary to meet its needs through substitute resources at least cost
20 to its customers, including possible participation in other regional nuclear projects like
21 the Summer plant.

1 **Q. DO OPTION AGREEMENTS, LIKE THAT ENTERED INTO BETWEEN DUKE**
2 **ENERGY CAROLINAS AND JEA, INCREASE RISKS TO THE COMPANY’S**
3 **SOUTH CAROLINA CUSTOMERS?**

4 **A.** No, they do not. We firmly believe that entering into such arrangements is in the best
5 interests of the Company’s customers as joint participation between multiple owners in
6 this project will lessen overall risk since the companies would share in the construction,
7 project management, and operational risks of constructing Lee Nuclear Station. This approach
8 also provides the advantage of adding capacity in smaller increments over time to better
9 match load growth and planned retirements and lessens the cost recovery, collections, and
10 cash flow impacts. For these reasons, Duke Energy Carolinas firmly believes that bringing in
11 partners on this project is in the best interest of our customers.

12 **Q. DOES THIS CONCLUDE YOUR REBUTTAL TESTIMONY?**

13 **A.** Yes, it does.